



EnviroCap, LLC

October 16, 2009

Charles Hoppin, Frances Spivy-Webber,
Arthur Baggett, Tam Doduc
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

RE: Financing Solutions for USTCUF Payment Delays

Dear Board Members:

In response to the discussion regarding bridge financing that took place at the October 6, 2009 Board Meeting, I felt the need to make recommendations directly to the Board as they relate to this issue.

Since 1998, EnviroCap, LLC has over funded over \$500 million of UST cleanup in over 20 states thus providing us a unique perspective on the concept of bridge financing. I personally have over 20 years experience directly with State Trust Funds with not only EnviroCap, but also with a national consulting firm (now operating as Shaw Environmental).

As a financial institution, we must address the following issues when deciding if and how much we can advance on a Trust Fund Claim:

1. Can the claim be legally pledged by our client?
2. Is the Claim/RR eligible and better yet, how much has been approved for payment?
3. When will the Claim/RR be paid?
4. Will the Fund payment be sent directly to EnviroCap or will it pass through the hands of the Consultant and/or Responsible Party?

Our contractual agreements and processes address the first item (as well as bankruptcy, UCC filings, etc.). In past years, issues #2 and #3 have been relatively predictable with the California program. However, for item #4, we have had to "take it on faith" that the Fund payment would be sent directly to EnviroCap through an Address Change Form completed by the Claimant. However, due to the fragile state of the economy and credit markets, it is more critical than ever for the Fund to provide tools to address item #'s 2 to 4.

The DFA has made strides since March 2009 to address item #2 and #3 by posting the approved payment amounts and their position in the payment queue to achieve greater transparency, however, there is still room for improvement by making the information available in "real time" while being accurate and not overly burdensome on DFA staff resources.

As a member of the Cleanup Fund Task Force, I can report that the issue of "bridge financing" has been discussed on many occasions. We have been told by Allan Patton on more than one occasion that they are "working on a resolution" to having the payments assigned to a financial

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institution, but to date we have not been provided any work papers to show us what is being proposed as a solution.

I have drafted a proposed form entitled "Assignment of Payment Form" (copy attached) that my firm believes will greatly assist Responsible Parties and environmental consultants secure financing of their "IOU's" from the Cleanup Fund. In preparing this document I reviewed similar documents (assignment contracts, direction to pay forms, etc.) from other cleanup programs (CT, IL, MA, TN & TX).

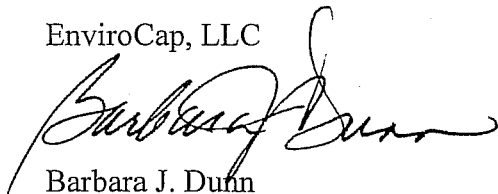
Based on my past experience with other programs and listening to difficulties these past months that the DFA staff faces as they review and process reimbursement requests, I have also made suggested modifications to the existing Reimbursement Request (RR) form. This updated form incorporates and references if an Assignment of Payment Form is in place and would improve efficiencies at the staff level; modifications to the existing RR form are in red type.

I intend to present both of the attached documents to the Task Force at our upcoming meeting on October 19th, and in the interest of information sharing and efficiency, I am copying certain executive staff at the Fund and CIOMA.

Thank you in advance for your time and consideration of these suggestions, as well as your continued support of the Task Force and our efforts. Please feel free to contact me with any questions or comments.

Sincere Regards,

EnviroCap, LLC



Barbara J. Dunn
Chief Operating Officer

Attachments

cc via email: Dorothy Rice, Executive Director, drice@waterboards.ca.gov
Barbara Evoy, Deputy Director, bevoy@waterboards.ca.gov
Allan Patton, Assistant Deputy Director, apatton@waterboards.ca.gov
Ron Duff, Manager UST Cleanup Fund, rduff@waterboards.ca.gov
Jay McKeeman, CIOMA, jaymck@cioma.com
Markus Niebanks, Task Force Chairman, markus@amicusenv.com

UNDERGROUND STORAGE TANK CLEANUP FUND

REIMBURSEMENT REQUEST - UNDERGROUND STORAGE TANK CLEANUP FUND

CLAIM NO:

REGION:

REIMBURSEMENT NO:

GRAND TOTAL THIS REIMBURSEMENT REQUEST: \$

CLAIMANT:

CONTAMINATED SITE:

CO-PAYEE:

ADDRESS:

JOINT CLAIMANT:

C/O:

ATTN:

MAILING ADDRESS:

CONTACT PHONE:

EMAIL ADDRESS:

☐

CHECK HERE AND COMPLETE "ADDRESS CHANGE FORM" IF ADDRESS HAS CHANGED

CONSULTANT INFO:

FIRM NAME:

CONTACT NAME:

PHONE:

EMAIL ADDRESS:

LETTER OF COMMITMENT:

AMENDMENT NO:

PROJECT COSTS INCURRED TO DATE

(This Section to be completed by claimant)

1. CORRECTIVE ACTION COSTS

(Costs entered here must be cumulative,

\$

\$

Total-to-date, NOT INCREMENTAL)

\$

\$

2. THIRD PARTY JUDGEMENT

\$

\$

3. ADJUSTMENT

\$

\$

4. DEDUCTIBLE (Subtract)

\$ ()

(\$5,000.00)

TOTAL

\$

APPROVED FOR
PAYMENT (TO DATE)

(State Use Only)

CERTIFICATION:

I have read and agree with the Conditions of Payments (See Conditions of Payment Certification form).

NOTE: This request CANNOT BE PROCESSED unless a complete and accurate Conditions of Payment Certification form is currently on file with the Fund.

The costs claimed have been incurred and have been paid or will be paid within thirty (30) days of receipt of the funds requested hereby. If such costs have not been paid within 30 days, funds received under this request will be returned to the State Water Resources Control Board.

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CHECK HERE IF PAYMENT HAS BEEN ASSIGNED TO A THIRD PARTY (ATTACH COMPLETED "ASSIGNMENT OF PAYMENT FORM")

CLAIMANT SIGNATURE: _____

DATE: _____

I authorize the Board and the CUF to disclose and discuss with the Consultant identified above any and all information associated with this Reimbursement Request. This authorization shall remain in full force and effect until such time that a written notice of revocation is received by the CUF.

CLAIMANT SIGNATURE: _____

DATE: _____

STATE USE ONLY: APPROVAL FOR PAYMENTS

\$ _____ LESS \$ _____ = \$ _____

Approved for Payment to Date

Previous Payments

Amount Due

Reviewed By

Title:

Date:

Approved By:

Title:

Date:

State Water Resources Control Board
Underground Storage Tank Cleanup Fund

Assignment of Payment Form

CLAIMANT NAME:	CLAIM NO.:
SITE ADDRESS:	

☐

CHECK HERE IF THIS IS A CHANGE IN ASSIGNEE (MUST BE ACKNOWLEDGED BY EXISTING ASSIGNEE)

As Claimant for this site, this assignment of payment form has been executed for the purpose of authorizing the State of California to pay any eligible funds from the Fund directly to my assignee:

Assignee Name: _____

Attn: _____

Address: _____

Phone: _____ Fax: _____

Also as Claimant, I acknowledge and agree to the following concerning the Assignee and State of California Water Resources Control Board (SCWRCB):

- 1 I agree that my assignee may have access to all documents necessary to substantiate any claim for reimbursement and to monitor compliance with applicable law and agency rules.
- 2 I agree to cooperate fully in all respects with both my assignee and the SCWRCB to assure continuing access to the Fund and to assure compliance with applicable statute and agency rules.
- 3 By appointing the party named above to receive payment on my behalf, I direct the SWRCB to pay that party and no one else.
- 4 I shall not change the designation or add to the list of people to be paid without submitting a new Payment Assignment Form to SWRCB. Any changes to Assignee designation must be acknowledged by an Officer of existing Assignee.

CERTIFICATION

PLEASE READ CAREFULLY BEFORE SIGNING:

"I (we) certify (or declare) under penalty of perjury that I (we) have read and agree with the Assignment of Payment listed above."

CLAIMANT SIGNATURE _____

DATE _____

CLAIMANT NAME (TYPE OR PRINT) _____

DATE _____

CLAIMANT SIGNATURE _____

DATE _____

CLAIMANT NAME (TYPE OR PRINT) _____

DATE _____

IF THIS IS A CHANGE IN ASSIGNEE DESIGNATION, THIS MUST BE SIGNED BY THE EXISTING ASSIGNEE.

"I acknowledge that the Payment Assignee can be changed to the above referenced Assignee."

EXISTING ASSIGNEE SIGNATURE _____

DATE _____

EXISTING ASSIGNEE NAME, TITLE (TYPE OR PRINT) _____

DATE _____